



CHURCH CAUSES DONORS TO LOSE IRS CHARITABLE DEDUCTION: ARE YOUR DONORS AT RISK?

On May 17, 2012, David & Veronda Durden v. IRS, the courts ruled that the Durden's \$22,517 donation to their church could not be counted as a charitable tax deduction. On their 2007 joint income tax return, Mr. and Ms. Durden claimed a deduction of \$22,517 for charitable contributions of cash and checks to their church.

The IRS denied the Durdens' deduction because they did not have the proper acknowledgement of their contributions from the church. The Durdens sued in Tax Court arguing, among other things, that they "substantially complied" with the statutory acknowledgment requirements. They had statements acknowledging the gifts from their church, along with canceled checks, and produced these as evidence. The court disagreed with the Durdens and did not allow their deduction.

The courts said that the acknowledgement did not contain the wording, "no goods or services were received in exchange for this gift." The church attempted to issue new acknowledgements to the Durdens, however these were not allowed. The courts referred to tax code that states that the acknowledgements must be issued on or before the filing due date, or the date that the filing is made.



Is your church in compliance?

In order to protect committed church members from a fate similar to the Durdens, church acknowledgements must contain amount (value) and date of the gift, along with one of the following phrases:

"No goods or services were provided in exchange for your contributions," or

"No goods or services were provided in exchange for your contributions other than intangible religious benefits."

Information about goods and services received from the church is important because, generally, a donor must reduce the amount of the contribution deduction by the fair market value of the goods and services provided by the church. This provision was added to the tax code in 1993 to curb some abuses.

Refer to the IRS tax code 26 USC 170 – Charitable, etc., contributions and gifts at this link:

<http://www.gpo.gov/fdsys/pkg/USCODE-2010-title26/pdf/USCODE-2010-title26-subtitleA-chap1-subchapB-partVI-sec170.pdf>

You may also refer to the following IRS tax codes listed below:

- 26 USC § 170 - Charitable, etc., contributions and gifts
- (f) Disallowance of deduction in certain cases and special rules
- (8) Substantiation requirement for certain contributions

(A) General rule

No deduction shall be allowed under subsection (a) for any contribution of \$250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

(B) Content of acknowledgement

An acknowledgement meets the requirements of this subparagraph if it includes the following information:

- (i) The amount of cash and a description (but not value) of any property other than cash contributed.
- (ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any property described in clause (i).
- (iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term "intangible religious benefit" means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

26 USC § 170 - Charitable, etc., contributions and gifts

(f) Disallowance of deduction in certain cases and special rules

(8) Substantiation requirement for certain contributions



(C) Contemporaneous

For purposes of subparagraph (A), an acknowledgment shall be considered to

be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of -

- (i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or
- (ii) the due date (including extensions) for filing such return.

The court case referred to was David P. Durden and Veronda L. Durden v. Commissioner. The Memorandum Opinion was issued by Judge Cohen of the U.S. Tax Court, Dkt. No. 17441-09, TC Memo. 2012-140 on May 17, 2012.

If you have any questions, please contact the Foundation.

HOLSTON CONFERENCE FOUNDATION

P.O. Box 900 Alcoa, TN 37701-0900

Phone: (865) 690-8124 • Fax: (865) 690-3162 • Toll-Free (866) 690-4080

Roger Redding

Executive Director

rogerredding@holston.org

Paul Bowman

Director of Gift Planning

paulbowman@holston.org